

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**ADRIAN W. DALTON, JOE GORMAN,
QUENTIN HARRIS, OCTAVIO SAHAGUN,
CHRISTOPHER SENA, and PETE VELARDE,
and Similarly Situated City Employees denied
Owed Overtime Wages,**

Plaintiffs,

vs.

Cause No. CIV-07-1217 RB/WPL

CITY OF SANTA FE, NEW MEXICO,

Defendant.

JOINT STATUS REPORT AND PROVISIONAL DISCOVERY PLAN

Pursuant to Fed. R. Civ. P. 26(f), a telephonic meeting was held on February 19, 2008, and was attended by:

Eric Loman, Esq., attorney for plaintiff.

Gianna Mendoza, Esq., attorney for defendants.

NATURE OF THE CASE

Plaintiffs are current employees of Defendant who claim they are entitled to overtime wages pursuant to the Fair Labor Standards Act.

AMENDMENTS TO PLEADINGS AND JOINDER OF PARTIES

Plaintiffs intend to file: None at this time.

Plaintiffs should be allowed until April 30, 2008 to amend the pleadings and join additional parties.

Defendant intends to file: None at this time

Defendant should be allowed until May 14, 2008 to amend the pleadings and join additional parties.

STIPULATIONS

The parties hereto stipulate and agree that venue is properly laid in this District and that the United States District Court for the District of New Mexico has jurisdiction of the parties and the subject matter.

The parties further stipulate that the law governing this case is: the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*,

PLAINTIFFS' CONTENTIONS

Plaintiffs contend they were not adequately compensated pursuant to the Fair Labor Standards Act and that their time cards had been manipulated by Defendant. The Plaintiffs contend the Defendant did not act in good faith.

DEFENDANT'S CONTENTIONS

Defendant denies Plaintiffs' claims and any allegations that any acts or omissions of Defendant caused injuries or damages to Plaintiffs. Defendant also contends (1) at all times relevant to this case, it has acted in good faith and had reasonable grounds for believing any act or omission was in compliance with the Fair Labor Standards Act; (2) if determined Defendant violated any provision of the Fair Labor Standards Act, said violation was not willful; (3) Plaintiffs are barred from recovering damages sustained during periods beyond the applicable statute of limitations under the Fair Labor Standards Act; (4) Plaintiffs, who have not filed the appropriate consent forms pursuant to 29 U.S.C. §216(b) and §256, are not parties to this case or properly before this Court; (5) Plaintiffs are not entitled to overtime compensation under the Fair Labor

Standards Act for *de minimis* activities they performed; and (6) the named Plaintiffs are not similarly situated to the remainder of the class.

Additionally, Defendant reserves the right to rely on such further defenses as may become apparent during the course of this litigation.

PROVISIONAL DISCOVERY PLAN

The parties joint propose to the Court the following discovery plan:

List all witnesses who, at this time, you think will either testify or be deposed, giving their name, title, address and a brief summary of their testimony. It is insufficient to list witnesses' addresses, save for clients, "in care of counsel."

List all documents which you believe, at this time, will be exhibits at the trial.

List all experts who you believe, at this time, will testify at the trial, giving their name, address, area of expertise, and a brief summary of the anticipated testimony.

Plaintiffs' Witness List

Plaintiffs anticipate the following witnesses may either testify or be deposed in this matter:

1. Adrian W. Dalton
Joe Gorman
Quentin Harris
Octavio Sahagun
Christopher Sena
Pete Velarde
Andrew M. Lucero
Ted L. Urban
c/o Sam Bregman
The Bregman Law Firm, P.C.
111 Lomas Blvd. N. W. Ste. 230
Albuquerque, New Mexico 87102
(505) 761-5700

Plaintiffs may have information regarding the allegations set forth in the Complaint and all other areas appropriate in prosecuting this lawsuit.

2. Any other transit employee who may opt-in to this lawsuit.
3. Any witnesses identified by any party to this lawsuit;

Defendant's Witness List

1. Adrian W. Dalton
Joe Gorman
Quentin Harris
Octavio Sahagun
Christopher Sena
Pete Velarde
Andrew M. Lucero
Ted L. Urban
c/o Sam Bregman
The Bregman Law Firm, P.C.
111 Lomas Blvd. N. W. Ste. 230
Albuquerque, New Mexico 87102
(505) 761-5700

Plaintiffs may have information regarding the allegations set forth in the Complaint and all other areas appropriate in defending this lawsuit.

2. Jon Bulthuis – Director of Santa Fe Trails
City of Santa Fe
2931 Rufina Street
Santa Fe, NM 87507
(505) 995-2006

Mr. Bulthuis may have information regarding the allegations set forth in Plaintiffs' Amended Complaint, policies and procedures of Santa Fe Trails and all other areas appropriate in defending this lawsuit.

3. Robert Romero – Public Works Director
City of Santa Fe
120 South Federal Place
Santa Fe, NM 87507
(505) 955-6979

Mr. Romero may have information regarding the allegations set forth in Plaintiffs' Amended Complaint, policies and procedures of the City of Santa Fe's Public Works Department and all other areas appropriate in defending this lawsuit.

4. Karyn Romero – Administrative Supervisor
City of Santa Fe
2931 Rufina Street

Santa Fe, NM 87507
(505) 995-2006

Ms. Romero may have information regarding the allegations set forth in Plaintiffs' Amended Complaint and all other areas appropriate in defending this lawsuit.

5. Teresita Garcia – Finance Management/Comptroller
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM
(505) 995-6500

Ms. Garcia may have information regarding the allegations set forth in Plaintiffs' Amended Complaint and all other areas appropriate in defending this lawsuit.

6. Kristine Kuebli – Human Resources Director
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM
(505) 995-6500

Ms. Kuebli may have information regarding the allegations set forth in Plaintiffs' Amended Complaint, personnel policies and procedures of the City of Santa Fe and all other areas appropriate in defending this lawsuit.

7. Allen White
Time Management Systems
4118 Central SE, Suite C
Albuquerque, NM 87108
(505) 265-8004

Mr. White may have information regarding the time management system used by the City of Santa Fe and all other areas appropriate in defending this lawsuit.

8. Individuals identified in Plaintiff's Complaint and Amended Complaint;
9. Any witnesses identified by any party to this lawsuit;
10. Such records custodians as may be necessary;
11. Witnesses necessary for foundation, impeachment or rebuttal;
12. Any witnesses identified during discovery;
13. Any expert witness retained and identified by Defendants; and

14. Any expert witnesses retained and identified by any other party.

Plaintiffs' Exhibit List

1. Time clock data for Plaintiffs and other transit employees;
2. Various reports and summaries of time clock data for Plaintiffs and other transit employees;
3. Experts' curriculum vitae, reports and supporting exhibits;
4. Any exhibits identified by any party to this lawsuit; and
5. Other documents obtained in discovery.

Defendant's Exhibit List

1. Time clock data for Plaintiffs and other transit employees;
2. Various reports and summaries of time clock data for Plaintiffs and other transit employees;
3. Experts' curriculum vitae, reports and supporting exhibits;
4. Any exhibits identified by any party to this lawsuit; and
5. Other documents obtained in discovery.

Plaintiffs' Expert Witnesses

Plaintiffs have not yet retained any expert at this time.

Defendant's Expert Witnesses

Defendant has not yet retained any expert at this time.

Discovery will be needed on the following subjects: All issues raised in the complaint, the nature and extent of the Plaintiffs' damages and all defenses thereto.

Maximum of 25 interrogatories by Plaintiffs and 25 interrogatories by Defendant to any other party (Responses due 30 days after service).

Maximum of 25 requests for admission by Plaintiffs and 25 interrogatories by Defendant

to any other party (Responses due 30 days after service).

Maximum of 25 requests for production by Plaintiffs and 25 interrogatories by Defendant to any other party (Responses due 30 days after service).

Maximum of 10 depositions by Plaintiffs and 10 depositions by Defendant.

Each lay witness deposition (other than of the Plaintiffs and a representative of Defendant which shall be limited to a maximum of 7 hours) shall be limited to maximum of 4 hours unless extended by agreement of the parties. Each deposition of expert witnesses will be limited to a maximum of 7 hours unless extended by agreement of the parties

Reports from retained experts under Rule 26(a)(2) due:

from Plaintiffs by June 18, 2008.

from Defendant by July 30, 2008.

Supplementation under Rule 26(e) due fourteen (14) days after knowledge of such supplemental information is acquired by the party or his or her counsel having made the original disclosure.

All discovery commenced in time to be completed by September 1, 2008. Discovery on (issue for early discovery) to be completed by _____ N/A _____.

Other Items (use separate paragraphs or subparagraphs as necessary if parties disagree):

OTHER PRETRIAL MOTIONS

Plaintiffs intend to file: Motion for summary judgment and motions in limine.

Defendant intends to file: Motion to dismiss, motion for summary judgment, motions in limine, discovery motions and other motions permitted by the Federal Rules of Civil Procedure.

The parties estimate trial will require 5 days.

_____ This is a non-jury case.

X This is a jury case.

The parties request a pretrial conference 60 days before trial.

SETTLEMENT

The possibility of settlement in this case may be enhanced by the use of the following alternative dispute resolution procedure: mediation. The parties request a settlement conference in June 2008.

APPROVED WITHOUT EXCEPTIONS

By: *Approved telephonically 03/26/08*
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